

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE

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SNMP RESEARCH, INC. and SNMP
RESEARCH INTERNATIONAL, INC.,

Plaintiffs,

v.

BROADCOM INC.; BROCADE
COMMUNICATIONS SYSTEMS LLC; and
EXTREME NETWORKS, INC.,

Defendants.
----- X

Case No. 3:20-cv-00451-CEA-DCP

U.S. District Judge Charles E. Atchley

**REPLY DECLARATION OF LESLIE A. DEMERS IN FURTHER
SUPPORT OF EXTREME NETWORKS, INC.'S MOTION TO
REFER QUESTIONS TO THE REGISTER OF COPYRIGHTS**

I, Leslie A. Demers, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney at the law firm of Skadden, Arps, Slate, Meagher & Flom LLP, counsel of record for defendant Extreme Networks, Inc. ("Extreme") in this action. I am a member of good standing of the State Bar of New York and have been admitted *pro hac vice* to this Court. I have personal knowledge of the facts set forth in this Declaration and can and will testify thereto under oath if called to do so.

2. I submit this declaration to transmit to the Court the attached exhibits in support of Extreme's Motion to Refer Questions to the Register of Copyrights (the "Motion"). **Exhibits 10-13** are being submitted to transmit documents cited in Extreme's Reply Memorandum in Support of the Motion, and **Exhibits 14-16** are being submitted to transmit documents cited in Extreme's opening Memorandum in Support of the Motion, which were publicly filed in other cases.

3. Attached as **Exhibit 10** is a true and correct copy of the Response of the Register of Copyrights to Request Pursuant to 17 U.S.C. §411(b)(2) filed at ECF No. 209 in *Olem Shoe Corp. v. Washington Shoe Co.*, No. 09-cv-23494 (S.D. Fla. Oct. 14, 2010), cited in Extreme's Reply Memorandum in Support of the Motion.

4. Attached as **Exhibit 11** is a true and correct copy of the Declaration of Jeffrey M. Jensen Submitting Rebuttal Expert Report of David Nimmer in Further Support of Defendants' Opposition to Plaintiff's Motion for Summary Judgment filed at ECF No. 111 in *Fashion Avenue Sweater Knits, LLC v. Poof Apparel Corp.*, No. 19-cv-06302 (C.D. Cal. Oct. 8, 2020).

5. Attached as **Exhibit 12** is a true and correct copy of the Response of the Register of Copyrights to Request Pursuant to 17 U.S.C. §411(b)(2) filed at ECF No. 129-1 in *Fashion Avenue Sweater Knits, LLC v. Poof Apparel Corp.*, No. 19-cv-06302 (C.D. Cal. Feb. 8, 2021).

6. Attached as **Exhibit 13** are true and correct excerpts of the U.S. Copyright Office, Compendium of U.S. Copyright Office Practices (2d ed. 1984) (cited in the opening and Reply Memoranda in Support of the Motion as "Compendium II") showing §§ 321.03, 904, 905.02.

7. Attached as **Exhibit 14** is a true and correct copy of the Response of the Register of Copyrights to Request Pursuant to 17 U.S.C. § 411(b)(2) filed at ECF No. 74-1 in *Bueno v. Benhamou*, No. 21-cv-04595 (C.D. Cal. June 30, 2022).

8. Attached as **Exhibit 15** is a true and correct copy of the Response of the Acting Register of Copyrights to Request Pursuant to 17 U.S.C. § 411(b)(2) filed at ECF No. 52-1 in *Jeon v. Anderson*, No. 17-cv-01709 (C.D. Cal. Mar. 6, 2019).

9. Attached as **Exhibit 16** is a true and correct copy of the Response of the Register of Copyrights to Request Pursuant to 17 U.S.C. § 411(b)(2) filed at ECF No. 187 in *HealtheState, LLC v. United States*, No. 18-cv-00034 (Fed. Cl. June 28, 2022).

Executed on April 10, 2023 in New York, New York.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ *Leslie A. Demers*
Leslie A. Demers